

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ACQIS LLC,

Plaintiff,

V.

**APPRO INTERNATIONAL, INC.,
et al.**

Defendants.

CIVIL ACTION No. 6:09-CV-148-LED

DEFENDANT IBM'S AMENDED RULE 26(a)(3) WITNESS LIST

Defendant International Business Machines Corporation (“IBM”) hereby provides its witness list pursuant to Fed. R. Civ. P. 26(a)(3), the Docket Control Order modified by order on July 2, 2010 (dkt no. 289). This list has been amended pursuant to the Court’s Order regarding trial entered on November 23, 2010 (dkt no. 408). IBM identifies each witness they may present at trial, other than solely for impeachment, as “will call,” “may call,” or “probably will not call,” in addition to each witness’ employer and topic the witness will address.

	WITNESS	(A) WILL CALL	(B) MAY CALL	(C) MAY, BUT PROBABLY WILL NOT CALL
1.	Michelle Baumgartner-Bonanno IBM ¹ damages	X		
2.	Dr. Thomas Conte IBM expert re noninfringement	X		

¹ IBM witnesses are available via counsel for IBM, Quinn Emanuel Urquhart & Sullivan LLP, 555 Twin Dolphin Drive, Fifth Floor, Redwood Shores, CA 94065.

	WITNESS	(A) WILL CALL	(B) MAY CALL	(C) MAY, BUT PROBABLY WILL NOT CALL
3.	Bill Holland IBM noninfringement, invalidity	X		
4.	Dr. Robert McClure IBM expert re invalidity	X		
5.	Alan Ratliff IBM expert re damages	X		
6.	Alex Yost IBM damages, noninfringement	X		
7.	Roger Gaskell Kognitio invalidity	X		
8.	Lawrence Genovesi Terascala, Inc. invalidity	X		
9.	Jim Mederios Seven Pinnacles invalidity	X		
10.	Walter Otto IBM invalidity	X		
11.	Vince Conroy CTO FusionStorm invalidity	X		
12.	Alan Pocrass Plexcom invalidity	X		
13.	David Champion IBM noninfringement, invalidity		X	
14.	Yiu-Fai Chan Acqis ² invalidity, standing, damages		X	
15.	Theresa Chu Acqis damages, standing, laches		X	

² Defendants believe Acqis witnesses can be contacted through Plaintiff's counsel

	WITNESS	(A) WILL CALL	(B) MAY CALL	(C) MAY, BUT PROBABLY WILL NOT CALL
16.	David Chen Tensilica, Inc. invalidity, standing		X	
17.	Martin Crippen IBM noninfringement, invalidity		X	
18.	Elmootazbellah (Mootaz) Elnozahy IBM noninfringement, invalidity		X	
19.	Lawrence Forsley JWK Corp. invalidity		X	
20.	Paul Groom Kognitio invalidity		X	
21.	Steven Hunter IBM noninfringement, invalidity		X	
22.	Hance Huston IBM damages		X	
23.	Guy Irving Arrow Electronics invalidity		X	
24.	Tom Jeremiah IBM noninfringement, invalidity		X	
25.	Steven Lin Cirrus Logic, Inc. standing		X	
26.	Kenneth Ocheltree IBM noninfringement, laches		X	
27.	Dr. William Mangione-Smith Acqis invalidity, noninfringement		X	
28.	Andrew McLaughlin IBM damages, noninfringement		X	

	WITNESS	(A) WILL CALL	(B) MAY CALL	(C) MAY, BUT PROBABLY WILL NOT CALL
29.	Cynthia Seal (aka Cynthia Byrd) IBM willfulness		X	
30.	Cheryl Smith Terascala, Inc. invalidity		X	
31.	Theodore J. Will IBM noninfringement, damages		X	
32.	Doug Erickson IBM damages		X	
33.	Mike Scollard IBM noninfringement		X	
34.	Michelle Browdy IBM willfulness		X	
35.	David Quinto Quinn Emanuel Urquhart & Sullivan, LLP willfulness		X	
36.	Evan Griffith IBM damages		X	
37.	Tony Man (aka Tony Lamman and/or Tony Chak-Lamman) Acqis noninfringement, invalidity, standing, damages		X	
38.	Thomas Gafford Acqis expert re infringement, invalidity		X	
39.	Dr. Christopher Velluro Acqis expert re damages		X	
40.	Emmet Murtha Acqis damages		X	

	WITNESS	(A) WILL CALL	(B) MAY CALL	(C) MAY, BUT PROBABLY WILL NOT CALL
41.	Douglas DeVivo Acqis noninfringement, invalidity, willfulness, standing, damages		X	
42.	William W. Y. Chu Acqis noninfringement, invalidity, willfulness, standing, damages, laches		X	
43.	Maurice Bland IBM noninfringement		X	
44.	Dhruv Desai IBM noninfringement, invalidity		X	
45.	Botond Kiss IBM damages		X	
46.	Christopher West IBM noninfringement		X	
47.	David Cosby IBM noninfringement			X
48.	Ed Suffern IBM noninfringement			X
49.	Ron Billau IBM noninfringement			X
50.	Steve Hartman IBM noninfringement			X
51.	Mike Hackworth Cirrus Logic, Inc. standing			X
52.	Steven Packer previously employed at Intel Corp. invalidity, standing			X

	WITNESS	(A) WILL CALL	(B) MAY CALL	(C) MAY, BUT PROBABLY WILL NOT CALL
53.	James Akiyama Intel Corp. invalidity, standing			X
54.	Lisa Sokol IBM invalidity			X
55.	Hewlett-Packard damages			X
56.	Dell, Inc. damages			X
57.	Oracle America, Inc. damages			X
58.	Appro International, Inc. damages			X
59.	Clearcube, Inc. damages			X
60.	Fujitsu America, Inc. damages			X
61.	NEX Computers, Inc. damages			X
62.	Super Micro Computer, Inc. damages			X
63.	Hitachi America, Ltd. damages			X
64.	NEC Corp. of America. damages			X
65.	Walmart damages, noninfringement			X

IBM reserves the right to call any witnesses identified or called by Plaintiff at trial. IBM also reserves the right to and may offer the video deposition testimony of any and/or all witnesses called by Plaintiff at trial for purposes of impeachment, including but not limited to offering or otherwise using any exhibit(s) referenced in such video deposition. This includes any witnesses called by Plaintiff at trial as live witnesses, as video-designated witnesses, or any other type of offer of testimony at trial.

DATED: November 29, 2010

Respectfully submitted,

/s/Michael D. Powell

Robert W. Stone (CA SBN 163513)
Michael D. Powell (CA SBN 202850)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
robertstone@quinnemanuel.com
mikepowell@quinnemanuel.com
555 Twin Dolphin Dr., 5th Floor
Redwood Shores, California 94065
Telephone: (650) 801 5000
Facsimile: (650) 801 5100

Eric M. Albritton
Texas State Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
(903) 757-8449 (phone)
(903) 758-7397 (fax)
ema@emafirm.com

*Counsel for International Business
Machines Corp.*

CERTIFICATE OF SERVICE

The undersigned certifies that on this **29th** day of **November 2010**, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3). Any other counsel of record will be served by a facsimile transmission and/or first class mail.

/s/Michael D. Powell _____